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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/541,147

10/03/2005

Paolo Steinbach

KAR 015

6158

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Themis Intellectual Property Counsel
7660 Fay Ave Ste H378
La Jolla, CA 92037

EXAMINER

NELSON, MICHAEL B

ART UNIT

PAPER NUMBER

4145

MAIL DATE

DELIVERY MODE

03/10/2008

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/541,147	Applicant(s) STEINBACH, PAOLO	
	Examiner MICHAEL B. NELSON	Art Unit 4145	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 1 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-83 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☐ Claim(s) ____ is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☒ Claim(s) 1-83 are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. ____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. ____. |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date ____. | 6) <input type="checkbox"/> Other: ____. |

DETAILED ACTION

Election/Restrictions

1. Restriction is required under 35 U.S.C. 121 and 372.

This application contains the following inventions or groups of inventions which are not so linked as to form a single general inventive concept under PCT Rule 13.1.

In accordance with 37 CFR 1.499, applicant is required, in reply to this action, to elect a single invention to which the claims must be restricted.

Group I, claim(s) 1-35, 66, 67, and 70-72 drawn to a thermoformable panel.

Group II, claim(s) 36-65, 68, 69, 73-77, drawn to a method for fabricating a thermoformable panel.

Group III, claim(s) 78-83, drawn to a method for obtaining an intermediate product for a thermoformable panel.

2. The inventions listed as Groups I-III do not relate to a single general inventive concept under PCT Rule 13.1 because, under PCT Rule 13.2, they lack the same or corresponding special technical features for the following reasons: the panel of thermoplastic fibers, which is heated above the melting point of the fibers and then compressed, though shared between all inventions, does not define a contribution over the prior art because Peoples Jr. (U.S. 4,568,581), discloses a panel of thermoplastic fibers, which is heated above the melting point of some of the fibers and then compressed for molding/shaping, wherein the binding of the fibers are predominantly on one surface, with little binding on the opposite surface (C1, L45-C2, L50 and C4, L41-55).

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2. This application contains claims directed to more than one species of the generic invention. These species are deemed to lack unity of invention because they are not so linked as to form a single general inventive concept under PCT Rule 13.1.

The species are as follows:

- a. Claim 7 drawn to a panel wherein the variation in the relative distribution of the fibrous and viscous or viscoelastic components of the thermoplastic material toward increase of the fibrous component as compared with the viscous or viscoelastic component is fast, i.e. is controlled by a ripid gradient function, i.e a gradient function being *more ripid* than a linear function with a parameter 1, as the depth in the panel thickness increases toward the median plane, at least from one of the two surface layers.
- b. Claim 8 drawn to a panel wherein the variation in the relative distribution of the fibrous and viscous or viscoelastic o components of the thermoplastic material toward increase of the fibrous component as compared with the viscous or viscoelastic component is slow and gradual, i.e. is controlled by a non ripid gradient function, i.e a gradient function being *less ripid* than a linear function with a parameter 1, as the depth in the panel: thickness increases toward the median plane, at least from one of the two surface layers.

The following claim(s) are generic: claims 1 and 6 is generic between species (a) and (b).

Applicant is required, in reply to this action, to elect a single species to which the claims shall be restricted if no generic claim is finally held to be allowable. The reply must also identify the claims readable on the elected species, including any claims subsequently added. An

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argument that a claim is allowable or that all claims are generic is considered non-responsive unless accompanied by an election.

Upon the allowance of a generic claim, applicant will be entitled to consideration of claims to additional species which are written in dependent form or otherwise include all the limitations of an allowed generic claim as provided by 37 CFR 1.141. If claims are added after the election, applicant must indicate which are readable upon the elected species. MPEP § 809.02(a).

The species listed above do not relate to a single general inventive concept under PCT Rule 13.1 because, under PCT Rule 13.2, the species lack the same or corresponding special technical features for the following reasons: the panel of thermoplastic fibers, which is heated above the melting point of the fibers and then compressed, though shared between all inventions, does not define a contribution over the prior art because Peoples Jr. (U.S. 4,568,581), discloses a panel of thermoplastic fibers, which is heated above the melting point of some of the fibers and then compressed for molding/shaping, wherein the binding of the fibers are predominantly on one surface, with little binding on the opposite surface (C1, L45-C2, L50 and C4, L41-55).

3. This application contains claims directed to more than one species of the generic invention. These species are deemed to lack unity of invention because they are not so linked as to form a single general inventive concept under PCT Rule 13.1.

The species are as follows:

- c. Claim 70 drawn to a formed panel used as an interior covering panel for vehicles, particularly automotive vehicles and especially a so called interior trim for automotive vehicles.
- d. Claim 71 drawn to a formed panel used as an interior or exterior covering panel for building structures and/or a panel for formworks containing concrete or the like.
- e. Claim 72 drawn to a formed panel used as an interior or exterior covering panel or a structural element for ships and/or railway vehicles, especially of the high speed type and/or for aerospace vehicles.

The following claim(s) are generic: claim 1 is generic between species c, d and e.

Applicant is required, in reply to this action, to elect a single species to which the claims shall be restricted if no generic claim is finally held to be allowable. The reply must also identify the claims readable on the elected species, including any claims subsequently added. An argument that a claim is allowable or that all claims are generic is considered non-responsive unless accompanied by an election.

Upon the allowance of a generic claim, applicant will be entitled to consideration of claims to additional species which are written in dependent form or otherwise include all the limitations of an allowed generic claim as provided by 37 CFR 1.141. If claims are added after the election, applicant must indicate which are readable upon the elected species. MPEP § 809.02(a).

The species listed above do not relate to a single general inventive concept under PCT Rule 13.1 because, under PCT Rule 13.2, the species lack the same or corresponding special technical features for the following reasons: the panel of thermoplastic fibers, which is heated

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above the melting point of the fibers and then compressed, though shared between all inventions, does not define a contribution over the prior art because Peoples Jr. (U.S. 4,568,581), discloses a panel of thermoplastic fibers, which is heated above the melting point of some of the fibers and then compressed for molding/shaping, wherein the binding of the fibers are predominantly on one surface, with little binding on the opposite surface (C1, L45-C2, L50 and C4, L41-55).

4. This application contains claims directed to more than one species of the generic invention. These species are deemed to lack unity of invention because they are not so linked as to form a single general inventive concept under PCT Rule 13.1.

The species are as follows:

f. Claim 73 drawn to a method for fabricating a thermoformable panel wherein it is a method for fabricating interior covering panels for vehicles, particularly automotive vehicles and especially a so-called interior trim for automotive vehicles.

g. Claim 74 drawn to a method for fabricating a thermoformable panel wherein it is a method for fabricating interior or exterior covering panels, for building structures and/or panels for formworks containing concrete or the like.

h. Claim 75 drawn to a method for fabricating a thermoformable panel wherein it is a method for fabricating interior or exterior covering panels or structural elements for ships and/or railway vehicles, especially of the high speed type and/or for aerospace vehicles.

The following claim(s) are generic: claim 36 is generic between species f, g and h.

Applicant is required, in reply to this action, to elect a single species to which the claims shall be restricted if no generic claim is finally held to be allowable. The reply must also identify the claims readable on the elected species, including any claims subsequently added. An argument that a claim is allowable or that all claims are generic is considered non-responsive unless accompanied by an election.

Upon the allowance of a generic claim, applicant will be entitled to consideration of claims to additional species which are written in dependent form or otherwise include all the limitations of an allowed generic claim as provided by 37 CFR 1.141. If claims are added after the election, applicant must indicate which are readable upon the elected species. MPEP § 809.02(a).

The species listed above do not relate to a single general inventive concept under PCT Rule 13.1 because, under PCT Rule 13.2, the species lack the same or corresponding special technical features for the following reasons: the panel of thermoplastic fibers, which is heated above the melting point of the fibers and then compressed, though shared between all inventions, does not define a contribution over the prior art because Peoples Jr. (U.S. 4,568,581), discloses a panel of thermoplastic fibers, which is heated above the melting point of some of the fibers and then compressed for molding/shaping, wherein the binding of the fibers are predominantly on one surface, with little binding on the opposite surface (C1, L45-C2, L50 and C4, L41-55).

Applicant is advised that the reply to this requirement to be complete must include (i) an election of a species or invention to be examined even though the requirement may be traversed (37 CFR 1.143) and (ii) identification of the claims encompassing the elected invention.

The election of an invention or species may be made with or without traverse. To preserve a right to petition, the election must be made with traverse. If the reply does not distinctly and specifically point out supposed errors in the restriction requirement, the election shall be treated as an election without traverse.

5. The examiner has required restriction between product and process claims. Where applicant elects claims directed to the product, and the product claims are subsequently found allowable, withdrawn process claims that depend from or otherwise require all the limitations of the allowable product claim will be considered for rejoinder. All claims directed to a nonelected process invention must require all the limitations of an allowable product claim for that process invention to be rejoined.

In the event of rejoinder, the requirement for restriction between the product claims and the rejoined process claims will be withdrawn, and the rejoined process claims will be fully examined for patentability in accordance with 37 CFR 1.104. Thus, to be allowable, the rejoined claims must meet all criteria for patentability including the requirements of 35 U.S.C. 101, 102, 103 and 112. Until all claims to the elected product are found allowable, an otherwise proper restriction requirement between product claims and process claims may be maintained.

Withdrawn process claims that are not commensurate in scope with an allowable product claim will not be rejoined. See MPEP § 821.04(b). Additionally, in order to retain the right to rejoinder in accordance with the above policy, applicant is advised that the process claims should be amended during prosecution to require the limitations of the product claims. **Failure to do so may result in a loss of the right to rejoinder.** Further, note that the prohibition against double

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patenting rejections of 35 U.S.C. 121 does not apply where the restriction requirement is withdrawn by the examiner before the patent issues. See MPEP § 804.01.

Conclusion

6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to MICHAEL B. NELSON whose telephone number is (571)270-3877. The examiner can normally be reached on Monday through Thursday 6AM-4:30PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Basia Ridley can be reached on (571) 272-1453. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Gwendolyn Blackwell/
Primary Examiner, Art Unit 1794

/MN/
02/20/08